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ABSTRACT

A comprehensive statement of teacher rights and responsibilities must consider the nature of the teaching profession, ethical standards, and legal dimensions. Precision in defining these areas as they relate to social studies teachers is difficult due to disagreement about purposes and approaches to social studies, lack of practitioner support of the profession, and low regard for the field by students, administrators, and the public. These factors, combined with indications that teaching qualifies only as a semiprofession, contribute toward a particularly low status for the social studies teacher. Recent teacher militancy has generally sought and won gains in areas of salaries and working conditions rather than policy and status. Dilemmas related to ethical principles and behavior of teachers can be resolved if students, parents, and administrators share in the process of decision making. Although organizations such as the National Council for the Social Studies, the American Civil Liberties Union, and the American Association of University Professors are actively concerned with teacher rights and responsibilities, principles which evolve from professional organizations are not necessarily practiced in public school systems. Courts have recently begun to come to grips with the legal dimensions of teachers' ethical behavior. Court cases are identified which relate to freedom to teach, freedom of speech and association outside the classroom, standards for teacher assessment, and legal rights of students. (Author/DB)

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Exploring Professional, Ethical and Legal Dimensions of Social Studies Teachers' Rights and Responsibilities: Implications for NCSS "Standards for Social Studies Teachers"

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SP 010 498

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In exploring possible dimensions to be considered in developing a statement of teacher professional rights and responsibilities, I shall deal with three major kinds of concerns. One is the nature and role of social studies teaching as one branch of a larger profession. The second is ethical, dealing with principles identified by selected educators and statements by professional organizations. The third is legal, focusing upon analyses and syntheses of judicial decisions.

Teaching as a Profession

An analysis of teachers' rights and responsibilities as professionals, whatever their specialization, logically begins with a conception of the nature of the teaching profession. Indeed, there has been and continues to be a debate among scholars and educators about the extent to which teaching in elementary and secondary schools is a profession. Current literature on the subject continues to make reference to and build upon criteria outlined by Abraham Flexner (1910, 1915) more than 50 years ago (Kirkman, 1976; Rogers, 1976). Flexner was concerned primarily with the professionalization of medicine, but over the years, the criteria he outlined gained general currency as "standards" for assessing the status of other professions or aspiring professions. Other scholars, especially sociologists, have elaborated on the nature and characteristics of professions and have advanced sets of characteristics common to professions, semiprofessions, or to occupations that lay unrecognized claim to professional status (Etzioni, 1969).

One of the most significant recent works focusing on teaching as a profession is the report from the American Association of Colleges for Teacher Education's Bicentennial Commission for the Profession of Teaching chaired by Robert B. Howsam (Howsam, 1976). In this report, the panel outlines a set of twelve characteristics shared by professions such as law, medicine, theology, university teaching, architecture, and engineering and a second set of characteristics shared by the semiprofessions. After a point by point analysis, the panel concludes that elementary and secondary school teaching is essentially a semiprofession. This assessment is supported by other observers who utilize much the same criteria (Dreeben, 1970; Corwin, 1975).

The characteristics or criteria of full professions cited by the AACTE panel are:

1. Professions are occupationally related social institutions established and maintained as a means of providing essential service to the individual and the society.

2. Each profession is concerned with an identified area of need or function (e.g., maintenance of physical and emotional health, preservation of rights and freedom, enhancing the opportunity to learn).

3. The profession collectively, and the professional individually, possesses a body of knowledge and a repertoire of behaviors and skills (professional culture) needed in the practice of the profession; such knowledge, behavior and skills normally are not possessed by the non-professional.

4. The members of the profession are involved in decision making in the service of the client, the decisions being made in accordance with the most valid knowledge available, against a background of principles and theories, and within the context of possible impact on other related conditions or decisions.

5. The profession is based on one or more undergirding disciplines from which it draws basic insights and upon which it builds its own applied knowledge and skills.

6. The profession is organized into one or more professional associations which, within broad limits of social accountability, are granted autonomy in control of the actual work of the profession and the conditions which surround it (admissions, educational standards, examination and licensing, career line, ethical and performance standards, professional discipline).

7. The profession has agreed-upon performance standards for admission to the profession and for continuance within it.

8. Preparation for and induction to the profession is provided through a protracted preparation program, usually in a professional school on a college or university campus.

9. There is a high level of public trust and confidence in the profession and in individual practioners, based upon the professions' demonstrated capacity to provide service markedly beyond that which would otherwise be available.

10. Individual practioners are characterized by a strong service motivation and lifetime commitment to competence.

11. Authority to practice in any individual case derives from the client or the employing organization; accountability for the competence of professional practice within the particular case is to the profession itself.

12. There is relative freedom from direct on-the-job supervision and from direct public evaluation of the individual practioner. The professional accepts responsibility in the name of his or her profession and is accountable through his or her profession to the society. (Howsam, p. 6-7)

Semiprofessions, on the other hand, are characterized by (Howsam, pp. 8-9):

1. Lower occupational status
2. Shorter training periods
3. Less social acceptance of the profession's claim that its members level of expertise justifies as much autonomy as enjoyed by the full professions.
4. A less specialized and highly developed body of knowledge and skills.
5. Markedly less emphasis on theoretical and conceptual bases for practice.
6. A tencency for members of the profession to identify more with the employing agency than with the profession itself.

7. Greater administrative and supervisory surveillance and contact.
8. Less autonomy in professional decision making with accountability to superiors rather than to the profession.
9. Management of organization within which semiprofessionals are employed persons who have themselves been prepared and served in that profession.
10. A prepondernace of women.
11. Absence of the right of priviledged communication between client and professional.
12. Little or no involvement in matters of life and death.

In arriving at their judgment that teaching is a semiprofession, the panelists made the following key points among others (Howsam, pp. 10-15):

1. Conventional wisdom, folkways and personal experience rather than validated professional knowledge and skill are too often the base upon which the profession rests. From this perspective, teaching may be viewed more as a craft than a profession.
2. Despite some progress in organizing its members into professional associations and striving to improve conditions for effective service, professional control and level autonomy are still low.
3. There is no firm agreement on the substance of the professional culture needed by those in teaching and thus no agreement on performance standards for admission to, or continuance in, the profession.
4. "The time and resources devoted to the professional aspects of teacher preparation are markedly lower than for any other profession or semiprofession."
5. Administrators and supervisors are theoretically and legally responsible for the supervision and evaluation of teaching competence; there are few instances of peer review, or conduct of proceedings to evaluate teaching competence by the organized profession. In fact, there is little

actual supervision or serious evaluation at all of a teacher's performance.

6. Increased teacher militancy as expressed in collective bargaining is likely to lead to increased demands for professional autonomy on a range of educational policies, but not in accepting responsibility for assessing individual teacher competency and accountability.

Social Studies Teaching as a Profession

Several of these points are especially pertinent in the case of social studies teachers. Analyses of our "professional culture" have indicated that social studies educators continue to disagree about the major purpose and approach to teaching social studies notwithstanding valiant efforts by some NCSS leaders to have the organization support a citizenship education of the reflective inquiry/decision making perspective in its policy statements and by publications (Brubaker, 1967; Barth & Shermis, 1970; Brubaker, Simon & Williams, 1977; Barr, Barth & Shermis, 1977, 1978; Engle, 1977; Cassidy & Kurfman, 1977; Morrissett, 1977; Shaver, 1977). In the absence of a predominant sense of mission and consequently of a generally accepted body of knowledge, skills, and experiences to be incorporated into social studies programs, it is not surprising that the field finds it difficult to enhance its status among students, educators, or the public, or to make the kind of significant contributions to the education of American youth that it otherwise might. Indeed, there is recent evidence that it is on the defensive to maintain its traditional place in the curriculum (Gross, 1977). The struggle is multifaceted. Many students hold social studies in low repute or cannot identify any positive contributions it makes to their education (Harris, 1969; Barr, 1971, pp. 29-52; Remy, 1972; Ehman, Mehlinger & Patrick, 1974, pp. 4-12). Similarly, teachers and administrators hold the field in comparatively low repute either explicitly (Nation's Schools, 1970; Gross, 1977), or implicitly

by failure to support it through active membership in such professional associations as NCSS or its state and local affiliates (membership is embarrassingly low compared to other fields such as mathematics). Consequently, the public cannot be expected to hold the field in high regard, either. That parents, legislators and school board members continue to exhibit conflicting and sometimes restrictive views on the nature and purpose of the field (reflected in specific graduation or curriculum requirements such as courses in Americanism vs. Communism, Private Enterprise and the like) is not surprising. Perhaps the low state of affairs can best be summarized by reference to the widely prevalent view that "anyone can teach social studies."

In short, the status of teaching as a profession is low. For social studies educators the problem is even more acute because of conflicting conceptions of purpose, a comparative lack of practioners' support of the profession, and a comparative low regard for the field by students, administrators and the public.

Finally, it should be noted that our view of what constitutes a profession as applied to teaching may be flawed by our continued acceptance of traditional criteria. For example, Covert (1975) contends that teaching is a public profession in contrast to the more established professions such as medicine, law, and in fact these older, private professions themselves are moving more toward the model applicable to teaching. Traditionally, the relationship between client and professional is one of superior to subordinate. There is a student centered tradition in teaching, increasingly advocated in recent years, that teaching should not involve a superior-subordinate relationship. Rather, teachers should be resource persons and guides who assist students in achieving their maximum potential as individual human beings. Further, traditional professions maintain their client-professional

or subordinate-superior relationships on the basis of restricting the availability of and opportunity to obtain their specialized knowledge and skills. Teaching, in contrast, has always been more "public." For those social studies educators in the reflective-inquiry or socio-political action traditions this would appear to be quite germane. Is not the task of the teacher to share knowledge and skills with students, to provide or point students to experiences where they become more proficient in decision making and effective participation? In other words, is not the social studies teacher's role as a professional to make the student independent of rather than dependent upon the professional (Peters, 1973, p. 55)?

Teacher Militancy and Professionalism

Although there has been a growing militancy among teachers and an increase in their power through their organizations over the last two decades, the major gains sought and won have been in the areas of salaries and working conditions rather than policy issues. Still some gains have been made in local contract negotiations on several matters of significance to teachers as professionals. These include teacher representation in groups that set curriculum policy, select textbooks, and recommend educational programs (Corwin, 1975, p. 238). Some contracts grant teachers a role in screening and recommending candidates for professional positions, proposing guidelines for promotion, grading practices, and the right to challenge administrators' judgments on teaching methods, and other matters. Of specific interest to social studies educators, is that in some cities teachers have successfully bargained for the selection and use of socially integrated texts and the introduction of minority studies programs. Despite these gains, and the apparent widespread desire of teachers to play a more significant role in deciding educational policy, teachers in general have little control or influence in setting school-wide or district-wide policies or over pro-

cedural decisions that determine the status and conduct of their occupation. Specifically, they have little power in setting certification standards, developing teacher training programs, in establishing school, district, or state curriculum requirements, or deciding upon the availability of specialized programs (Corwin, 1975, pp. 237-238).

Ironically, a consequence of increased teaching militancy and power could be a trend toward what some may view as "deprofessionalization." This trend may well be characterized by the increasing use of paraprofessionals such as teacher aides, and in the use of lay people for a variety of tasks that involve the supervision, instruction and testing of students. Evidence for this trend may also be found in attempts to organize and assess instruction as a production function (Goldman, Weber & Noah, 1971; Summers & Wolfe, 1975), or in certain elements of competency based education and other educational technology approaches.

Accountability, Competency Based Education and Professionalism

An additional factor to consider in teachers' quest for increased professional status and power is that when teachers' demands go beyond increases in salaries and improved working conditions into areas of instructional policy and teaching practice such as per pupil expenditures, class size, special education classes and the like, teachers appear to be asserting that their students will benefit from these policies and practices (Covert, 1975). In the current climate of opinion the public is increasingly likely to ask for an accounting. Accountability, of course, is one of those currently popular notions that cuts across much of our social fabric. A potentially troublesome outcome of this trend is the increase in school board and legislative pressures for accountability devices and the rise in the humber of malpractice suits brought against schools and teachers (Guthrie & Craig, 1973, pp. 20-24; Covert, 1975; Howsam, 1975, p. 17). The question

arises then, to what extent should NCSS take very specific positions about such educational policies and practices as teachers should work with "no more than 25 students. . . in self-contained classrooms," or "125 students per day," (as it does in the 1971 "Standards" [section IX, subsection B]). If such policies continue to advocate then a rationale citing evidence of probable inproved student achievement or other benefits should be provided. Although important, such matters are not essential to the leadership role of NCSS and are therefore best set aside in favor of concentrating on concerns more fundamental to its mission: leadership in providing ethical social education appropriate for helping students become effective citizens in our democratic society.

Closely related to, and in fact a part of the accountability movement, is the conception of competency based education (CBE) and its related movement competency based teacher education (CBTE). Previous NCSS statements such as "Standards. . ." (1971) and "Guidelines for the Preparation of Social Studies Teachers (1967) in line with then current traditions, included recommended courses, sometimes course content, and patterns of course allocations among the broad strands of general education, academic teaching fields and professional education. Neither general teaching competencies applicable nor specific competencies related to social studies instruction (e.g. teaching history and social science methods of inquiry or date gathering and analysis skills) were recommended. As the CBTE wave swept over education, various government and professional organizations joined in the movement. Lists of expected teacher competencies, some generic and some specific to

teaching fields such as social studies emerged (Minnesota Department of Education, 1973; Ehman & Van Sickle 1973; Okey, Long, Capie & Johnson, 1977). NCSS is now faced with the decision either to retain the older format or to join the CBTE movement and develop, adopt, or adapt statements of social studies teacher competencies as part of its revised standards.

Although a discussion of CBTE is not central to this paper, it is related to teacher rights and responsibilities in one important respect. To the extent that NCSS advocates specific teaching competencies to be expected of social studies teachers, it provides students, parents, school authorities and the courts with explicit standards upon which legal action may be taken against them for incompetent teaching or unintended education outcomes (Ehman & Van Sickle, 1973, pp. 6-7; Covert, 1975). Therefore, any NCSS statements must be carefully drawn so that teacher performance is clearly linked to community and school support in matters of educational policy, adequate resources, working conditions and other pertinent matters. It is important to note that the courts have not historically decided teaching competence issues on the basis of explicitly stated standards of competence, but on the basis of implicit standards that relied on conventional wisdom or accepted "common sense" guidelines (Rosenberger & Plimpton, 1975).

Implications for Teacher Education and a Revision of "Standards"

If a revised statement of "Standards for Social Studies Teachers" is to make a significant contribution to the professionalization of the field, it must begin by coming to grips with the lack of a commonly agreed upon a sense of mission and the nature of social studies within the school program. This, of course, has been the one of the foremost unresolved problems confronting NCSS since its beginning. Acceptance of one of the conflicting traditions--the social sciences centered, the learner centered, or society centered traditions (the latter refers to the reflective inquiry/decision making and social action

orientations) would risk the alienation of large groups of social studies educators. On the other hand, continuation of the umbrella-like multi-tradition framework may result in the failure of NCSS to provide the leadership it should in advocating development of better balanced and appropriate teacher education programs. I shall identify two matters of particular concern.

First, the disciplines orientation remains strong on college and university campuses. Teachers, at least younger secondary specialists fresh from the campuses, are not given much opportunity to experience academic work that models instruction consisten with traditions other than the disciplines oriented perspective. I would like to suggest that so long as NCSS espouses purposes broader than those reflecting the social science tradition that it 1) develop or promote the development of college and university model teacher training courses and experiences that relfect its other constituent traditions and 2) publicize and foster the implementation of such courses nationally through workshops, conferences, and other devises. Two examples will illustrate the point. Most baccalaureate teacher training programs provide no courses or other planned experiences representative of the socio-political decision making tradition. Could not an excellent rationale be developed for recommending that prospective social studie teachers have a course similar to the one created by Shaver and Larkins (1973) for high school youth? Similarly, most teacher education programs do not provide planned experiences with the social action perspective. Would it not be reasonable to provide prospective teachers with at least one internship experience with a business, social service agency, local or state government?

A second concern deals with a lack of attention in teacher education programs to matters of philosophy, and ethics of education appropriate to social education in a democratic society. Emphasis on accountability and competency based education intensify the problem by emphasizing the

training in skills at the expense of education for a more holistic conception of one's professional role. NCSS should consider recommending that teacher education programs for social studies teachers include academic experiences dealing with the nature and problems inherent in democratic theory and tradition. Additionally, it should encourage a reemphasis in undergraduate and graduate programs of academic work in the philosophy of education with particular emphasis upon ethics and education (Peters, 1967; 1973).

In short, NCSS members and social studies teachers in general do not share a single conception of purpose or "tradition." It appears difficult if not impossible to synthesize the traditions despite the attempt to do so by Barr, Barth and Shermis (1977). Therefore, NCSS might find it more useful to achieve a balance in presenting the conflicting conceptions and traditions within teacher education programs so that new social studies teachers have a better base from which to derive their own rationale for teaching social studies and also a broader perspective of their responsibilities and rights as professional social studies educators.

Ethical Standards

Ethics are principles and standards for judging and justifying human behavior. As applied to professions, ethics are principles and standards for judging and justifying behavior of those engaged in the profession toward their clients, toward one another and toward various elements of society. Typically, members of profession develop and publish through their professional organizations codes of ethical behavior to be followed by their members. Education is no exception. The National Education Association (NEA) and its affiliate state organizations are prime examples. In 1929, the NEA adopted its first Code of Ethics. Since then, it has been revised several times and has been adopted or adapted in various forms by NEA's state affiliates. The most recent version was adopted in 1975. The first paragraph

of the preamble outlines the parameters of educators' professional ethical behavior:

> The educator, believing in the worth and dignity of each human being, recognizes the supreme importance of the pursuit of truth, devotion to excellence, and the nurture of democratic principles. Essential to these goals is the protection of freedom to learn and to teach and the guarantee of equal educational opportunity for all. The educator accepts the responsibility to adhere to the highest ethical standards.

Specific criteria for judging ethical behavior are organized around two principles--commitment to the student and commitment to the profession. Although the principles are stated in a prescription manner (what educators should do) the specific criteria are proscriptive, that is they specify what educators should not do.[1] Of specific interest to the major concerns of NCSS are "Principle I" and its first three provisions:

> The educator strives to help each student realize his or her potential as a worthy and effective member of society. The educator works to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals.
>
> In fulfillment of the obligation to the student, the educator--
>
> 1. Shall not unreasonably restrain the student from independent action in the pursuit of learning.
>
> 2. Shall not unreasonably deny the student access from independent action.
>
> 3. Shall not deliberately suppress or distort subject matter relevant to the student's progress.

These three provisions relate directly to the preamble's reference to "freedom to learn" but they exhibit some problems in wording and intent. For example, what does "unreasonably" mean? Further, none of the provisions suggests

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[1]It is interesting to note that earlier versions of the Code adopted by NEA and some of its affiliates' current versions include four principles: commitment to the student, to parents, to the public and to the profession (dealing largely with employment practices.) Specific provisions are prescriptive in nature rather than proscriptive (NEA, 1952, Georgia Association of Educators, 1975).

affirmative action by the teacher (although this is implied in the statement of principle). Teachers have a responsibility to take positive action both individually and collectively to see that education is an ethical experience. The NEA Code, from my point of view, does not establish this notion. It may be interpreted to mean, for example, that so long as teachers do not restrict students' access to varying points of view, teachers have fulfilled their ethical obligation. But teachers have a responsibility to see that schools provide students with multiple viewpoints on matters where differences of opinion exist. This may seem to be a matter of semantics, but I would contend that it is an important matter. NCSS in any statement of rights and responsibilities should emphasize the affirmative aspects of ethical behavior.

In this vein, the ethical principles important to social studies educators have been recently explored by Hartoonian (1977) and Ochoa (1977). Hartoonian suggests a model for studying the ethics of education within the framework of political realities of the society. Knowledge, including methods of study and purposes of schooling, need to be considered as they affect 1) the rights of students, 2) rights of teachers, administrators and others, and 3) rights of society (parents). He outlines five ethical dilemnas that must be dealt with:

> (1) the pursuit of truth versus what is acceptable; (2) the right of privacy versus the use of certain methods of study; (3) the desire for a "better" society versus using children to change society; (4) society's desire to more effectively use educational human resources versus grading students; and (5) the opportunity to be put in touch with one's cultural heritage versus the need for utilitarian skills [to be effective workers, parents and citizens]. (pp. 66-67)

These, and other dilemmas, he argues, must be decided by permitting all parties--students, educators and parents--to participate in the process of decision making. This is "ethical parity" or a sharing in the function of

ruling which brings with it a sense of individual and group responsibility.

Ochoa expands upon some of these notions as she draws upon criteria for ethical processes in education developed by Peters (1967) and basic values inherent in our democratic way of life to suggest these principles of ethical behavior (pp. 74-75):

> 1. [E]ducational processes should equip citizens with knowledge, values, and participation skills that enhance the individual's potential to think and act as an effective citizen in a democratic society. [In so doing] the rights of teachers are limited by the right of a democratic society to socialize its young in ways that are consistent with its values and to transmit knowledge and skills which inform the intellect and character of the learner.
>
> 2. [S]ocial studies teachers have a responsibility to transmit a meaningful understanding of the standards by which actions are judged in a democratic system and to lead the learner to see democratic values as but one set of values that can guide a political system. [In so doing] the rights of the teacher are limited by the rights of students to develop meaningful understanding of democracy and to gain perspective of how that body of knowledge or thought fits into a coherent pattern of life. In short, the rights of the teacher are limited by the rights of students to know the truth and the rights of society to socialize its young.
>
> 3. [In selecting and using methods and techniques of instruction], the teacher is limited by the rights of students to learn in conscious ways that do not violate respect for the individual. This includes the rights of students to know the reasons behind what they are being taught as well as reasons behind why they are being taught in a particular way [and also] the responsibility to relate what is learned to the concerns of the student and to respect the student's right to privacy.

Additional guidelines can be found in Cox's rationale for dealing with attempts at censorship (1977). He outlines five purposes of schooling related to social education:

> Schools should further the development of a more just society.
>
> Schools should sustain the personal dignity and worth of all individuals.
>
> Schools should stand for rationality and stand against irrationality.
>
> Schools should promote the development of global-mindedness in students. (p. 7)

Accordingly only four categories of practices and content are "warrantably restricted" from schools and classrooms:

> (1) . . . if they are damaging to the student' s physical or mental health or personality development.
>
> (2) . . . if they are damaging to the development of a more just society or if they are destructive of the personal dignity or worth of any individual in the society.
>
> (3) . . . if they oppose the canons of rationality or inhibit the development of rationality in the schools.
>
> (4) . . . [if] they stand in the way of developing global-mindedness in students . . . .

The purposes and standards identified by Cox, with the exception of global-mindedness, and those principles outlined by Hartoonian and Ochoa can be consistently found in the policies established by NCSS over the last quarter of a century. NCSS has espoused and defined the principles of academic freedom and concomitant educator rights and responsibilities in a series of statements: "The Treatment of Controversial Issues in the Schools," 1951; "Freedom to Learn and Freedom to Teach," 1956; "Academic Freedom: A Policy Statement," 1967; "Academic Freedom and the Social Studies Teacher," 1969; "NCSS Position Statement on the Freedom to Teach and the Freedom to Learn," 1974; and "NCSS Position Statement on Student Rights and Responsibilities," 1974.

NCSS, of course, has not been the first or only organization to elaborate and support these concepts. The American Civil Liberties Union and the American Association of University Professors are but two other recent examples (e.g. AAUP, 1969; ACLU, 1973; Jough, 1967). That some of the principles have an established intellectual tradition (Hofstadter and Metzger, 1955) and a growing legal base for college and pre-college institutions does not mean they are systematically practiced in our schools. Too often there is an incomplete acceptance of responsibilities that sustain the rights, an overlooking of obligations to assure students' right to learn as well as teachers' right to teach, and a

mindset by all parties--teachers, students and parents that looks first and foremost to the protection of each's rights without sufficient regard for parity, or the mutual sharing of responsibility, rights and power. The significance of parity in the educational process and the full acceptance of the supporting elements involved in the concepts of freedom to teach and freedom to learn has been put forcefully by Peters: "The manner of [one's] teaching. . . in the spheres both of intellect and character. . . is the manner that maketh the man " (1973, p. 139). Too often in our schools we are not mindful of the interrelationship of purpose, content and method and the ways in which content and method change and distort our purpose. Our methods and techniques become used in mindless fashion (Silberman, 1970; Sarason, 1971) with the unfortunate results documented by Holt, Kozol, Herndon, Illich and a host of other critics. For social studies teachers, the failure of schools in general and social studies as a field in particular to seek a parity of rights, responsibilities and authority, and to be guided by those ethical principles outlined by Peters and Ochoa is dramatically illustrated in the words of Steven Kelman when he was an eighteen year old honors high school student:

> It all starts in the first grade. There we are treated to a candy cane world. . . .
>
> The whole idea the school seems to try to get across is that if you don't teach it to us, it doesn't exist. . . .
>
> In most schools [student governments] must restrict themselves to planning social extravaganzas. . . when we try to [act responsibly] you act as if youthful hordes were trying to take over the school.
>
> From my experience, American history courses generally produce more anti-Americanism than understanding of history.
>
> . . . [We] know the difference between the world we're taught and the world we experience. And if we blame you for trying to put something over on us, it's only because we're taught what, alas, most Americans seem to think. If the school is trying to turn its back on reality, it only represents an America that's doing the same thing. . . .(Kelman, 1966, pp. 30-34)

Although written a decade ago, I am afraid that despite attempts to make school experiences more meaningful and realistic, much remains the same about our schooling process. Unfortunately, the current emphasis on educational accountability and conpetenc based education could worsen the situation. But it need not if organizations such as NCSS are able to articulate clearly principles of ethical education and work to have these become matters of accepted practice and public policy.

Legal Dimensions of Teachers' Rights and Responsibilities

Although there is a substantial body of thought and policy statements related to teachers' ethical behavior involving both substantive and procedural rights and responsibilities, the courts have only in recent years begun to come to grips with these conceptions especially as they apply to educators in public elementary and secondary schools. Most of these conceptions are embodied in what is generally referred to as academic freedom.

Academic freedom includes at least three elements: freedom of teaching, freedom of research, and freedom of speech and association outside the classroom. Related to these three and sometimes considered part of concept is academic due process (Flygare, 1976; Joughin, 1967). Two of these elements are of primary concern to this paper: freedom to teach, sometimes referred to as freedom of speech in the classroom, and freedom of speech and association outside the classroom.

Freedom to Teach

The Courts have dealt with a range of issues involving the rights of teachers to change or delete content from a prescribed curriculum, to introduce unapproved content into the curriculum, to use materials and methods not formally approved by school authorities including materials that raise controversial issues, employ controversial language or present content in a

manner not in accord with parent or school system views. Based upon Court opinions and inferences drawn by legal scholars and observers the following legal guidelines appear to have validity.

Teacher assignment. Teachers have the right (and responsibility) to refuse teaching assignments that require them to teach outside of their field of certification so long as their contracts clearly specify their area of legal competence. For example, a certified social studies teacher employed under a contract specifying the position as "social studies teacher' has legal contractual grounds for refusing to teach an English or science class (Flygare, 1976, p. 8).

Teacher discretion involving prescribed course content, materials, method or school practice. Teachers have the right (and responsibility)[2] to refuse to teach courses or segments of courses or use particular materials or methods of instruction or engage or require their students to engage in school practices that have the intent or effect of imposing particular religious or partisan political beliefs, or offend their own or their students' religious and political beliefs (West Virginia State Board of Education vs. Barnette 319 U.S. 642, 1943; Epperson vs. Arkansas, 393 U.S. 97, 1968; N. R. Miller, 1943, pp. 838-839; Flygare, 1976, pp. 8-9).

Teacher inclusion of unapproved course content. Teachers have a conditional right (and responsibility) to include a limited amount of course content in a prescribed course of study or use supplementary materials in order to provide a scholarly, balanced, competent presentation of a subject appropriate to the students' age and maturity and academic capacity. For example, it would appear reasonable for a social studies

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[2]The courts in their decisionshave focused on teachers' rights for the most part. I have inserted the notion of responsibility where it seems ethically warranted and does not conflict with judicial findings.

teacher to introduce a limited amount content and material into an American history course related to a particular ethnic group such as the American Indian if the prescribed course of study excluded treatment of that group (Parducci vs. Rutland, 1970; Sterling vs. Fort Bend Independent School District, 1973, 1974; Fischer & Schimmel, Chapt. 3; N. R. Miller, 1974, pp. 838-839). However, rulings have not been consistent on this matter (see for example, Parker vs. Board of Education, 1966) and teacher rights are restricted in that there must be a clear relationship of the unapproved content and material to the prescribed course and it must not lead to a substantial exclusion or distortion of a valid curriculum (Goldwasser vs. Brown, 1969; Clark vs. Holmes, 1972; Fischer & Schimmel, 1973, Chapt. 3; N. R. Miller, 1974, p. 870-872; Flygare, 1976, pp. 10-11).

Teachers' right to choose teaching materials and methods. Teachers have a right (and responsibility) to select and use materials and methods of instruction they deem appropriate to achieve valid educational objectives so long as they are relevant to the subject being taught, appropriate to the age and maturity of students, do not materially and substantially disrupt school discipline and are not expressly forbidden by school authorities (Tinker vs. Des Moines, 1969; Keefe vs. Geanokos, 1969; Parducci vs. Rutland, 1970; Maillox vs. Kirby, 1971; Fischer & Schimmel, 1973, Chapt. 3; N. R. Miller, 1974, pp. 873-879; Flygare, 1975, pp. 10-14).

Standards for assessing teachers' freedom to teach. The judicial interpretation of the principles of academic freedom, and freedom of speech as applied to elementary and secondary classrooms is a complex matter. The Courts have not accepted the view that the right to freedom of speech is absolute. In the case of teachers, there is less unbridled freedom of

expression and greater responsibility to be prudent and to use prescribed or generally accepted methods and materials. The younger and less mature the student, the more likely courts are to accept restriction on teachers' freedom of instruction. The use of profanity or other expressions that might be considered shocking, inappropriate and without valid educational purpose with elementary children might be acceptable for use with senior high school students if the ideas or expressions can be shown to be within the student's previous realm of experience or appropriate to their maturity level. So age and maturity and social and cultural background is one test applied by the courts.

A second test is the relevancy of the expression or material to the course of study and to serious educational purpose. Discussion of, or materials dealing with, topics such as homosexuality, open marriage, and birth control which might logically be included in a senior high school sociology, psychology or "problems" course might well not be considered relevant to a junior high geography, or even civics, course.

A third but less important factor is whether there are applicable school policies about classroom expression that make clear which particular types of expression are acceptable and which are not. Such policies must be fairly precise and not have the effect of suppressing freedom of speech.

A fourth test is whether or not there is any disruption associated with the classroom expression and the extent and type of disruption. There is obviously always risk of argument or disturbance whenever individuals hold differing views on the same subject or issue, but as the Tinker case made clear, the constitution not only permits, but requires that we run the risk (Flygare, 1976, p. 12).

These major parameters have been appropriately summarized by N. R. Miller:

1. The speech itself is within the ambit of the first amendment if the average child of the same age and maturity level as the group exposed to the expression would not find that the discussion or underlying work considered as a whole, appeal to prurient interests; if the discussion and work have serious educational value; and if the content of the discussion and work is sufficiently familiar to such students that offense or embarrassment is unlikely to result.

2. The expression is compatible with educational purposes if neither the classroom presentation nor the underlying work is artificially introduced into the curriculum, and if the presentation or work does not materially and substantially interfere with appropriate student emotional receptivity to the educational program or with requisite school disciplines.

3. Moreover, both the presentation and the work must have demonstrated educational value, either transparently proper because of comparability with other school materials or significantly.

4. The context and manner of presentation must reflect good faith and serious educational motive. (N. R. Miller, 1974, p. 879)

Teachers' right of expression on public issues. Teachers have a right to express a personal point of view either directly or symbolically on issues of public concern in their classrooms, so long as they express their views in a prudent and reasonable manner suitable to the age and experience of students and their expressions do not interfere with the carrying out their teaching duties. But they may not be protected if they knowingly or recklessly make false statements, or if their statements materially or substantially interfere with school discipline. (James vs. Board of Education, 1972; Russo vs. Central School District No. 1, 1973; N. R. Miller, 1974, pp. 887-892). Although teachers are not required to provide a balanced presentation of conflicting views on issues incidental to a prescribed curriculum, such might not be the case where prescribed content is involved. Here, balance may be an appropriate criterion (N. R. Miller, 1974, p. 890). Additionally, although apparently not specifically required by legal precedent, teachers have an ethical responsibility to afford students the opportunity to present contrasting views and to critically evaluate teacher expressions.

Freedom of Speech and Association Outside the Classroom

In recent years, the courts have moved away from the view that teaching was a privilege which brought with it restrictions on constitutional rights, toward the position that teachers have nearly as much freedom of expression outside the classroom as do any other citizens (Flygare, 1976, p. 15).

Freedom of speech outside school. Teachers have a right to express personal views on public issues outside of school just as would any other citizen except within certain limitations on issues related to the school, its administration and officials. Freedom of expression on school related matters may not be protected if: 1) the public utterances interfere with harmonious working relationships in the school; 2) the utterances include false statements knowingly or recklessly made; 3) if false statements, even though not knowingly or recklessly made, nevertheless are difficult to counter because of the teacher's presumed expertise by the public; 4) the expression is in the category of gossip rather than an important public issue or 5) the school system has narrowly drawn grievance procedures through which teachers are to submit complaints about school operations (Pickering vs. Board of Education, 1968; Williams vs. School District, 1969; Jervey vs. Martin, 1972; S. Miller, 1974, pp. 904-906; Flygare, 1976, p. 14-16).

Freedom of association outside the school. Teachers have the right to associate with individuals or groups or to join organizations even though they may be considered controversial or radical so long as they as individuals do not subscribe to aims and actions that are unlawful or engage in actions that are unlawful (Keyishian vs. Board of Regents of New York, 1967; Fischer & Schimmel, 1973, pp. 91-94).

Right to engage in political activity. Teachers have a right to participate in nonpartisan political activities, but may be legally restricted by state or local laws from engaging in partisan political activity except to

privately express an opinion and cast a vote in an election. If there are no prevailing state or local laws proscribing teacher political partisan activity (so-called "little Hatch acts") then teachers are free to engage in both partisan and non-partisan political activities outside of school such as electioneering for candidates, accepting positions in political campaigns or holding political office (United Public Workers vs. Mitchell, 1947; United States Civil Service Commission vs. National Association of Letter Carriers, 1973; Broadrick vs. Oklahoma, 1973; Flygare, 1976, p. 16-18).

Freedom of speech inside the school, but outside the classroom. Teachers have substantially the same degree of freedom of expression outside the classroom but within the school as they do entirely outside the school. The courts have, sometimes in particular instances, however, applied more stringently guidelines about disruption of school activity and harmonious relationships of teachers with colleagues, school officials or students. (Tinker vs. Des Moines Independent Community School District, 1969; Pickering vs. Board of Education, 1968; Los Angeles Teachers Union vs. Los Angeles Board of Education, 1969; Puentes vs. Board of Education, 1969; Watts vs. Seward School Board, 1969; Duke vs. North Texas State, 1972; S. Miller, 1974, pp. 907-915).

Teacher Responsibility and Student Legal Rights

Teachers obviously have a legal responsibility to avoid infringing on students' actual and symbolic freedom of speech in the classroom and school house, and all other legal rights relative to protection of their privacy and property. These rights have been outlined in a number of sources including the "NCSS Position Statement on Student Rights and Reponsibilities" (1974). But beyond the legal responsibility to avoid denying student rights, teachers, especially social studies teachers, have a moral

obligation to see that others in the school community honor those rights and that students through curriculum or extra curricular means are apprised of both the rights and responsibilities that those rights carry for reciprocity and parity.

Summary

In this paper, I have tried to explore three dimensions or sources of social studies educators' rights and responsibilities: professional, ethical, and legal. In the first instance, we social studies educators must somehow try to come to grips with competing traditions within our own field as well as the competing forces for professionalization and deprefessionalization with education. In the second instance, we must strive to create a balance among our varying conceptions of purpose, content and method of instruction to achieve a parity of rights, responsibilities and power among parents, educators and students suitable for a democratic society. In the last instance, we have seen significant progress in the growth of legal support for principles of academic freedom essential for ethical education in a democratic society. From these sources and on the basis of its already well established tradition of support in such areas as academic freedom and student rights, a set of standards for teacher professional rights and responsibilities can be derived.

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